

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION

UNITED STATES OF AMERICA, and	)	
	)	
COMMONWEALTH OF	)	
VIRGINIA,	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 2:09-cv-481
	)	
HAMPTON ROADS SANITATION	)	
DISTRICT,	)	
	)	
Defendant.	)	
_____	)	

**NOTICE OF LODGING  
OF FIFTH AMENDMENT TO CONSENT DECREE**

Plaintiff, the United States of America, respectfully gives notice of lodging of a Fifth Amendment to the Consent Decree entered in the above-captioned matter (“Fifth Amendment”). This Fifth Amendment<sup>1</sup> is subject to a period of public comment; and after filing this notice of lodging the proposed Fifth Amendment will be published in the Federal Register and Virginia Register of Regulations.

**Accordingly, no action is required by the Court at this time.**

<sup>1</sup> The original Consent Decree was lodged for public comment in September, 2009. The Parties amended the Consent Decree in response to one of the comments received during the public comment period and the United States moved to enter the amended decree. Thus, the First Amendment to the Consent Decree is the version entered by the Court in February, 2010.

In 2009, Hampton Roads Sanitation District (“HRSD”) and Plaintiffs United States and the Virginia Department of Environmental Quality (“VADEQ”) entered into a Consent Decree to resolve claims under the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*, arising from sanitary sewer overflows in the HRSD system.

Among other things, the Consent Decree requires HRSD to minimize or eliminate the discharge of pollutants to navigable waters by requiring it to implement measures toward ensuring the regional sanitary sewer system and the Defendant’s sewage treatment plants have adequate capacity to convey and treat wet weather sewer flows within the Hampton Roads region. HRSD will also take affirmative measures with the goal of eliminating all sanitary sewer overflows (“SSOs”) from the sewer system, and all capacity-related SSOs, from the regional sewer system. In addition to the wet weather capacity-related measures required by the Consent Decree, HRSD has numerous other regional environmental obligations and initiatives to further the CWA’s objectives of protecting the region’s waters from pollution, including substantially reducing nutrient and sediment discharges to Chesapeake Bay.

The parties to the Consent Decree have agreed to certain modifications set forth in the Fifth Amendment to the Decree, a copy of which is being lodged contemporaneously as an exhibit to this Notice. The Fifth Amendment builds upon the previous amendments to the Consent Decree to provide for the phased implementation of the Defendant’s proposed Regional Wet Water Management Plan (concurrently with an Aquifer Replenishment Program), and make conforming amendments to monitoring, assessment, and reporting requirements. It also resolves certain stipulated penalties and streamlines the termination requirements of the Consent Decree.

The proposed amendments have been agreed to by all parties, but pursuant to Paragraph 178 of the Consent Decree, shall only be effective upon approval of the Court.

The United States will provide public notice and an opportunity for public comment in accordance with 28 C.F.R. § 50.7. The 30-day public comment period will begin with the publication of a notice in the Federal Register seeking comments on the proposed Fifth Amendment. Co-plaintiff VADEQ will concurrently publish notice in the Virginia Register of Regulations seeking public comments. If, after review and evaluation of any comments received, the United States continues to believe that the Fifth Amendment is fair, reasonable, and in the public interest, it will move the Court to enter the Fifth Amendment.

**No action is required by the Court at this time.**

Respectfully submitted:

UNITED STATES OF AMERICA

TODD KIM  
ASSISTANT ATTORNEY GENERAL  
Environment & Natural Resources Division  
U.S. Department of Justice

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 22<sup>nd</sup> day of November, 2021, I electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which will cause an electronic copy to be served to the following filing users:

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